

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Notice FI-2386

For: FSA State and County Offices and KCMO

Procedures for Revised Initial Notification and Demand Letters and Tickler Reports

Approved by: Acting Deputy Administrator, Management



1 Overview

A

Introduction

The Debt Collection Improvement Act of 1996 (DCIA) requires that debts over 180 calendar days delinquent be referred to the Department of Treasury to be included in the Treasury Offset Program (TOP) for offset of any eligible Federal payments due the debtors. The IRS tax refund program is included in TOP. Debts transferred to KCMO will also be referred to Treasury for debt collection action referred to as cross-servicing.

The initial notification and demand letters have been revised in the Common Receivable System (CRS) and ACS to include the required due process notification of the collection actions that will be taken to collect debts.

B

Purpose

This notice:

- provides timeframes and clarifies procedures for the revised initial notification and demand letters
- clarifies tickler reports
- provides copies of the letters in Exhibits 1 through 5.

Disposal Date

April 1, 2000
8-31-99

Distribution

State Offices; State Offices relay to County Offices

2 Sending Initial Notification and Demand Letters

A

When to Send Letters

Use the following timeframes for sending the initial notification and demand letters.

- Send the initial notification letter (Exhibit 1) when it is determined that a debt is due. This letter provides the debtor with the opportunity to request reconsideration of the debt and to appeal to NAD both the program determination and the amount determined to be due within 30 calendar days from the date of the letter.
- Send the first demand letter (Exhibit 2) 30 calendar days after the initial notification letter **unless** an appeal or reconsideration of the debt determination has been filed by the debtor. The first demand letter is generated automatically in CRS. If an appeal or request for reconsideration is filed within 30 calendar days of the initial notification letter, send a manual first demand letter acknowledging the outcome of the appeal after a determination has been made by COC on the first level of appeal that the debt is due.
- Transfer the debt from CRS to ACS 31 calendar days after the first demand letter is sent.

Continued on the next page

2 Sending Initial Notification and Demand Letters (Continued)

B

Debt That
Cannot Be
Collected By
Offset

Use the following table to determine what action to take if debt cannot be collected in full by internal administrative offset.

IF the debt cannot be collected in full by internal administrative offset within 3 years from the date of delinquency and the debtor...	THEN...
does not submit evidence to dispute the possible income tax refund offset action	transfer eligible debt to KCMO 60 calendar days after the first demand letter is sent.
submits evidence to dispute the possible income tax refund offset action	<p>do all of the following:</p> <ul style="list-style-type: none"> review the evidence and make a determination within 30 calendar days notify the debtor of the determination if the debt is: <ul style="list-style-type: none"> eligible, transfer it to KCMO not eligible, update ACS and retain the debt at the County Office. <p>Note: Claims are eligible for transfer to KCMO 90 calendar days after the date of indebtedness unless they are:</p> <ul style="list-style-type: none"> in appeal under civil rights review in bankruptcy in litigation owed by a participating producer and can be paid in full by internal administrative offset within 3 years from the date of indebtedness. Refer to subparagraph 3 C.

Continued on the next page

2 Sending Initial Notification and Demand Letters (Continued)

C

**Debt That Can
Be Collected By
Offset**

Use the following table to determine what action to take if debt can be collected in full by internal administrative offset.

IF the debt can be collected in full by internal administrative offset within 3 years from the date of delinquency and the debtor...	THEN...
does not submit evidence to dispute the possible income tax refund offset action	do all of the following: <ul style="list-style-type: none"> • retain the debt at the County Office • generate the second demand letter (Exhibit 4) from ACS 60 calendar days after the first demand letter is sent • generate third demand letters (Exhibit 5) in March of each year. <p>Note: This is a reminder letter and does not provide any additional due process.</p>
submits evidence to dispute the possible income tax refund offset action	do all of the following: <ul style="list-style-type: none"> • retain the debt at the County Office • review the evidence and make a determination within 30 calendar days • notify the debtor of the determination • send the second and third demand letters, as appropriate.

3 Clarification of County Office Instructions

A

Reviewing Letters

The initial notification and demand letters give the debtor the required due process notification of the actions that may be taken to collect debts.

Letters generated by CRS are automatically recorded in ACS when the debt is transferred. The Statement of Outstanding Debt Attachment is system generated.

County Offices shall:

- review system generated letters to ensure that the data is accurate
 - enter the initial notification and first demand letter dates during claim establishment, if a claim is established manually
 - record the first demand letter date, if the debtor filed for an appeal of the debt determination in CRS before the debt is transferred to ACS
 - update the system as needed to reflect current codes and debt amounts.
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Reviewing Evidence To Dispute Tax Refund Offset

The first demand letter provides due process notification that the debt may be collected by offset of the debtor's federal income tax refund. The debtor has 60 calendar days from the date of the first demand letter to dispute the offset action and present evidence in writing that all or part of the debt is not past due or legally enforceable. **This letter does not provide new NAD appeal rights.** The letter provides the debtor with the opportunity to dispute the debt amount that is subject to offset from the income tax refund.

Note: A debt is legally enforceable if there has been a final agency determination that the debt, in the amount stated, is due and there are no legal bars, such as appeal, litigation, or bankruptcy, to collection action.

If the proposed tax refund offset action is disputed by the debtor, the County Office shall within 30 calendar days:

- review the documentation submitted
 - ensure that the debtor name, address, taxpayer identification number, and debt amount are accurate and current
 - notify the debtor in writing of the review determination.
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Continued on the next page

3 Clarification of County Office Instructions (Continued)

C

Producer Debts Retained by the County Office

Producer debts that can be paid in full by internal administrative offset within 3 years will be retained at the County Office. County Offices shall:

- send the second and third demand letters according to the time frames noted in subparagraph 2 C
- update ACS and transmit current information pertaining to debts from ACS to KCMO
- transfer the debt to KCMO for further collection action if the debt is not collected in full at the end of 3 years.

Note: Although these debts will not be centralized in KCMO, but will be retained at the County Office, KCMO will refer these debts to Treasury to be included in TOP at 180 calendar days delinquent, based on a download of information from ACS.

4 Tickler Reports

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Descriptions of Tickler Reports

Tickler reports are generated automatically by ACS during the Tuesday end-of-day process. They can also be generated at any time from the ACS's Claims Main Menu.

The "Claims Eligible for the Imminent Transfer Letter" and the "Claim Eligible for Transfer to DMD" tickler reports have been eliminated.

The "Claims Eligible for Second Demand Letter" and "Claims Eligible for Third Demand Letter" tickler reports were revised to include suggestions to determine the necessary action.

The "Claims in Referral Status" report is a new report that lists claims that are currently referred to another office. Suggestions to assist in the review of this report and to determine the necessary action are provided.

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Contact

If questions about this notice:

- State Offices shall contact KCMO at 816-926-1941
 - County Offices shall contact State Offices.
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Revised Initial Notification Letter

Producer Name
 Producer Address

Date

Dear *Producer Name*:

This is to notify you that the County Committee has determined that you have a debt arising from:

The amount you owe consists of:

Principal	Interest	Other charges	Total
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You may contact this office to review records related to the determination of this debt or to receive an explanation of the debt. You may obtain a copy of the records, subject to a copying charge.

You have 30 days from the date of this letter to seek an informal review and request reconsideration of the determination of the debt. In requesting the reconsideration, provide a written explanation of the basis of your disagreement with the determination, and provide documentation to support your position.

This debt is due. You may pay your debt by check payable to "Commodity Credit Corporation" and mail the check to this office at the above address. If you are unable to pay the debt in full now, you may arrange to establish a mutually acceptable repayment agreement and pay in installments. Please contact this office at _____ if you have any questions. We will work with you to resolve this matter and to discuss alternative methods of payment, if necessary.

If this debt is not resolved, this Agency reserves the right to use all collection actions available to recover the debt. The debt may be collected by internal administrative offset from any CCC or FSA payments that may be due to you. Additional actions that may be taken to recover the debt include the assessment of late payment interest, administrative costs, and penalties; administrative wage garnishment; reporting the debt to credit bureaus; referring the debt to private collection agencies and debt collection centers; collecting the debt by offset of qualified disbursements and refunds, including federal tax refunds; referring the debt for litigation (if collection administratively is unsuccessful); and reporting the debt to the Internal Revenue Service if the debt, or any portion of the debt, is discharged. Once your debt is more than 180 days delinquent, we are required to refer the debt to the Department of Treasury for collection.

Our records do not reflect that you have filed for bankruptcy protection under Title 11 of the United States Code. If you have filed for bankruptcy, please notify us so that we may update our records and proceed to resolve this debt in accordance with bankruptcy procedures.

Sincerely,

County Executive Director

Revised First Demand Letter (No Appeal)

Producer Name
Producer Address

Date

Dear *Producer Name*:

By letter dated _____, we notified you that the County Committee had determined that you owe \$_____, plus interest as applicable. See attached Statement of Outstanding Debt. You did not request reconsideration of the debt determination. The debt is past-due. Late payment interest will accrue on your debt at the rate of ____% per annum from the date of this letter until the debt is paid or otherwise resolved. FSA will waive late payment interest on your debt (or any part of your debt) that is paid in the next 30 days.

Please pay your debt now. Make your check payable to "Commodity Credit Corporation" and send it to this office at the above address. If you are unable to pay the debt in full now, you may arrange to establish a mutually acceptable repayment agreement and pay in installments. If payment in full or arrangements to pay the debt in full are not made within 60 days from the date of this letter, the debt will be sent to the Kansas City Management Office for referral to the Department of Treasury. The Department of Treasury will collect the debt by offset of qualified disbursements and refunds, including any federal income tax refund to which you may be entitled.

Because this debt may be collected by offset of your federal income tax refund, you may present, within 60 days from the date of this letter, evidence that all or part of the debt is not past-due or legally enforceable. To do so, submit to this office a written explanation of your position that the debt or part of the debt is not past-due or legally enforceable, and include documentation to support your position.

Under Federal law and regulations, the following additional actions may be taken by USDA and the Department of Treasury to collect delinquent debts:

- Assessment of interest, administrative costs, and penalties
- Administrative garnishment of wages
- Offset of CCC and FSA payments
- Reporting the debt to consumer and commercial credit bureaus
- Referral of the debt to private collection agencies and Treasury-designated collection centers
- Referral of the debt to agency counsel or the Department of Justice for litigation
- Reporting the debt to the Internal Revenue Service if the debt, or any portion of the debt, is discharged.

Our records do not indicate that you have filed for bankruptcy protection under Title 11 of the United States Code. If you have filed for bankruptcy, please notify your local USDA Service Center as soon as possible so that we may update our records to reflect the bankruptcy, and proceed to resolve this debt in accordance with bankruptcy procedures.

Please contact this office at _____ if you have any questions. We want to work with you to resolve this debt and to discuss repayment options, if necessary. If this debt is not resolved within 60 days from the date of this letter, the Kansas City Management Office will take additional collection action.

Please disregard this letter if you have already paid this debt.

Sincerely,

County Executive Director

Revised First Demand Letter (Appeal)

Producer Name
Producer Address

Date

Dear *Producer Name*:

By letter dated ____, you were notified that the County Committee had determined that you owe \$_____, plus interest as applicable. You requested an informal review and reconsideration of the debt. The County Committee has reconfirmed the debt determination. The debt is now past-due. Late payment interest will accrue on your debt at the rate of __% per annum from the date of this letter until the debt is paid or otherwise resolved. FSA will waive late payment interest on your debt (or any part of your debt) that is paid in the next 30 days.

Please pay your debt now. Make your check payable to "Commodity Credit Corporation" and send it to this office at the above address. If you are unable to pay the debt in full now, you may arrange to establish a mutually acceptable repayment agreement and pay in installments. If payment in full or arrangements to pay the debt in full are not made within 60 days from the date of this letter, or upon conclusion of the appeals process, whichever is later, the debt will be sent to the Kansas City Management Office for referral to the Department of Treasury for collection by offset of qualified disbursements and refunds, including any federal income tax refund to which you may be entitled.

Because this debt may be collected by offset of your federal income tax refund, you may present, within 60 days from the date of this letter, evidence that all or part of the debt is not past-due or legally enforceable. Submit to this office a written explanation of your position that the debt is not past-due or legally enforceable, and include documentation to support your position. Of course, if you are continuing the appeal of the debt under the National Appeals Division procedures, and have included the issues of the past-due nature of the debt and its legal enforceability, we will rely on the final determination in the National Appeals Division process, and not make a separate determination on those issues. Please be assured that we will not send the debt to the Kansas City Management Office until completion of the National Appeals Division process.

Under Federal law and regulations, the following additional actions may be taken by USDA and the Department of Treasury to collect delinquent debts:

- Assessment of interest, administrative costs, and penalties
- Administrative garnishment of wages
- Offset of CCC and FSA payments
- Reporting the debt to consumer and commercial credit bureaus
- Referral of the debt to private collection agencies and Treasury-designated collection centers
- Referral of the debt to Agency counsel or the Department of Justice for litigation
- Reporting the debt to the Internal Revenue Service if the debt, or any portion of the debt, is discharged.

Our records do not indicate that you have filed for bankruptcy protection under Title 11 of the United States Code. If you have filed for bankruptcy, please notify your local USDA Service Center as soon as possible so that we may update our records to reflect the bankruptcy, and proceed to resolve this debt in accordance with bankruptcy procedures.

Please contact this office at ____ if you have any questions. We want to work with you to resolve this debt and to discuss repayment options, if necessary. If this debt is not resolved within 60 days of the date of this letter, or upon conclusion of the appeals process, the Kansas City Management Office will take additional collection action.

Please disregard this letter if you have already paid this debt.

Sincerely,

County Executive Director

Revised Second Demand Letter

Producer Name
Producer Address

Date

Dear *Producer Name*:

In earlier letters, you were notified of the debt referenced below and given the opportunity to pay the debt or contact this Agency to make arrangements to pay the debt in installments. Because you have not paid or otherwise resolved the debt, this office will take all appropriate collection actions, including:

- (1) Offsetting CCC and FSA payments.
- (2) Referring the debt to the Department of Treasury for offset of qualified Federal disbursements and refunds, including federal tax refunds, and other collection actions.
- (3) Reporting the debt to consumer and commercial credit bureaus.
- (4) Referring the debt to private collection agencies and Treasury-designated collection centers.
- (5) Garnishing wages through administrative proceedings.
- (6) Referring the debt to agency counsel or to the Department of Justice for litigation.
- (7) Reporting to Internal Revenue Service any discharged debt, which may be treated as taxable income.

The information shown on the attached page will be reported to consumer credit bureaus after 60 days from the date of this letter. The information consists of your name, address, taxpayer identification number, the amount of the debt, and the date of delinquency. Any dispute concerning the accuracy of this information should be put in writing, and directed to the Chief, Debt Collection Branch, Debt Management Division (DMD), at the Kansas City Management Office (KCMO), P.O. Box 419205, Kansas City, Missouri 64141-6205. Your debt is accruing late payment interest as described in the letter dated _____. In addition, if payment in full or arrangements to pay this debt in full are not made by _____ an additional 3% interest will be assessed on the unpaid balance of the debt retroactively from _____. Administrative costs may be added to the amount due. As of _____, you owe the United States Government _____ on this debt.

To resolve the debt, make full payment now. Make your check payable to "Commodity Credit Corporation" or "Farm Service Agency" as appropriate and mail it to the address shown above. Alternatively, if you cannot afford to pay the debt in full now, you may resolve the debt by arranging for installment payments pursuant to a signed promissory note. To find out if you qualify for installment payments, submit a written request to pay your debt in installments to this office. Include information about your income, expenses, assets and liabilities. If your debt is paid or otherwise resolved quickly, it will not be transferred to the Department of Treasury for collection, nor will it be reported to credit bureaus.

If you have recently filed for bankruptcy protection under Title 11 of the United States Code, please contact us immediately so that we may update our records. We will then pursue resolution of the debt according to bankruptcy law.

Please disregard this letter if you have already paid this debt. If you have any questions about this letter, please contact this office at _____.

Sincerely,

County Executive Director

Enclosure
Ref:

Revised Third Demand Letter

Producer Name
Producer Address

Date

Dear *Producer Name*:

We have not received payment in full for the claim(s) displayed on the attached page. The principal plus interest due for the debt(s) referenced in this letter as of today's date is _____.

As stated in our previous letter to you, if payment in full or arrangements to pay this debt in full are not made, your name, address, taxpayer identification number, amount, status, history of the claim, and program under which the claim arose will be disclosed to credit reporting agencies. Also this claim will be referred to the Department of Treasury for offset.

Please make your check payable to "Commodity Credit Corporation" or "Farm Service Agency", as appropriate, and mail or deliver it to the above address. If you have any questions regarding this matter, please do not hesitate to contact us.

Sincerely,

County Executive Director

Enclosure
Ref: